HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 7290 of 2007

DATED: 20-04-2007

Between:

Mudunuru Sanyasi Raju and another

…Petitioners

and

The Joint Collector, Visakhapatnam
District and another

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 7290 of 2007

ORAL ORDER:

Heard the learned counsel for the petitioners Sri Devanand and the learned Government Pleader for Civil Supplies.

The 1st petitioner is the owner of a quantity of Bitumen and the 2nd petitioner the owner of a Tanker bearing No. AP 5 X 234.

On 22-1-2007 at about 8-30 in the evening, the lorry was found stationed near the Steel Plant at Kotari Road, Sundarayya Colony, Gajuwaka, Visakhapatnam by the police. The police intercepted the vehicle and found that 7 Drums of 200 Ltrs capacity each of Bitumen were in the lorry. On enquiry, the driver of the lorry one Varahalu is asserted to have stated that he is working as the driver under the 2nd respondent who is a friend of the Steel Plant Contractor, the 1st respondent and together they had sold surplus Bitumen to one Appala Suri of Sundarayya Colony for a lesser price and while they were unloading the 7 Drums of Bitumen from the Tanker, they were intercepted and the Tanker and Bitumen seized under a Mediator's report drawn up for the purpose.

A case has been registered as Cr.No.64 of 2007 on the file of P.S.Gajuwaka under Sections 407, 417 and 420 of the Indian Penal Code and Sections 3 and 7(1) of the Essential Commodities Act, 1955 read with clause 3(3) of the Petroleum Products (L&RS) Order, 1980.

After the seizure, the 1st petitioner submitted representations dated 24-3-2007 and later are dated 9-3-2007, for release of the seized

Tanker and the Bitumen. The 1st respondent to whom the representations were made has not yet passed any order for release of the seized Tanker and the Bitumen. It is also urged on behalf of the petitioners that the 1st petitioner was granted a bail by the learned District and Sessions Judge, Visakhapatnam on 28-2-2007 in Crl.M.P.No. 215 of 2007 whereat it is recorded that the offence punishable under Sections 407, 417 and 420 of IPC are not, *prima facie*, attracted. On these assertions, it is claimed on behalf of the petitioners that there is no violation of any control order and the provisions of the Essential Commodities Act are not attracted and in view of the observations made by the learned District and Sessions Judge, Visakhapatnam no offence under I.P.C. is also made out and the order of seizure is illegal.

A criminal case has been registered under the provisions of I.P.C. and of the control order thereunder. Whether the charges tantamount to transgression of the provisions of the relevant Act or a control order is a matter to be decided by the competent authority. In any event, the observations made by the Court while granting bail do not amount to conclusion as to the inapplicability of the provisions of the I.P.C. which are alleged to have been violated by the petitioners.

On the aforesaid analysis, this Court is not inclined to declare the seizure as illegal at this stage of the matter. As the petitioners have made representations to the 1st respondent for release of the Bitumen and the Tanker. he 1st respondent is obligated to consider the applications expeditiously. He has not done so.

Accordingly, the writ petition is allowed granting only this relief. The 1st respondent shall expeditiously and in any event within 7 days from the date of receipt of a copy of this order, consider and pass appropriate orders on the petitioners' applications for release of the seized Bitumen and the Tanker. There shall be no order as to costs.

GODA RAGHURAM, J

20-04-2007
GRR